



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

IN REPLY REFER TO:
7202.4-OS-2018-01157

October 31, 2019

Via email: 53560-87201390@requests.muckrock.com

Mr. Jimmy Tobias
MuckRock News
DEPT MR 58611
411A Highland Avenue
Somerville, MA 02144

Dear Mr. Tobias:

On July 23, 2018, you filed a Freedom of Information Act (FOIA) seeking the following:

[A]ll written or electronic communications, including attachments, sent or received by Deputy Assistant Secretary Aurelia Skipwith, or her executive assistant, that contain one or more of the following words or phrases: Endangered Species Act", "ESA", "endangered species", "threatened species", "migratory bird", "MBTA", "sage grouse", "Texas hornshell", "sagebrush lizard", "incidental take", "4(d) rule" and/or "4(d)". This request pertains to records produced between January 1, 2018 and the date this request is processed.

Your request was received in the Office of the Secretary FOIA office on May 9, 2018, and assigned control number **OS-2018-01157**. Please cite this number in any future correspondence or communications with the Office of the Secretary regarding your request. We are writing today to provide an interim response to your request on behalf of the Department of the Interior. Please find attached one (1) file consisting of 943 pages. Of those 943 pages, 933 pages are being released in full and ten (10) pages contains redactions as described below.

Portions of the enclosed documents have been redacted pursuant to Exemption 6 of the FOIA (5 U.S.C. § 552(b)(6)) because they fit certain categories of information:

Non-public email addresses

Exemption 6 allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” The courts have held that the phrase “similar files” involves all information that applies to a particular person. Hertzberg v. Veneman, 273 F. Supp. 2d 67, 85 n.11 (D.D.C. 2003).

Mr. Jimmy Tobias

To determine whether releasing requested information would constitute a clearly unwarranted invasion of personal privacy, we are required to perform a “balancing test.” This means that we must weigh the individual’s right to privacy against the public’s right to disclosure.

- (1) First, we must determine whether the individual has a discernable privacy interest in the information that has been requested.
- (2) Next, we must determine whether release of this information would serve “the public interest generally” (i.e., would “shed light on the performance of the agency’s statutory duties”).
- (3) Finally, we must determine whether the public interest in disclosure is greater than the privacy interest of the individual in withholding.

The information that we are withholding consists of personal information and non-public email addresses, and we have determined that the individuals to whom this information pertains have a substantial privacy interest in it. Additionally, we have determined that the disclosure of this information would shed little or no light on the performance of the agency’s statutory duties and that, on balance, the public interest to be served by its disclosure does not outweigh the privacy interest of the individuals in question, in withholding it. Nat’l Ass’n of Retired Fed. Employees v. Horner, 879 F.2d 873, 879 (D.C. Cir. 1989).

In summation, we have determined that release of the information that we have withheld would constitute a clearly unwarranted invasion of the privacy of these individuals, and that it therefore may be withheld, pursuant to Exemption 6.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Tony Irish, Attorney-Advisor, in the Office of the Solicitor, was consulted in reaching this decision. Justin Davis, Office of the Secretary FOIA Office, is responsible for making this decision.

Sincerely,

Justin Davis
Office of the Secretary
FOIA Office